

MONTANA LEGISLATIVE HISTORY

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Chapter 582 1985

Bill H 912 S _____ Original bill & history ✓ c

H. Committee on Nat'l Resources

Hearing Date(s) Feb 22 ✓ c

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_____ c

Date Out _____ c

S. Committee on Nat'l Resources

Hearing Date(s) Mar 20 ✓ c

Mar 25 ✓ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE FINAL STATUS

4/22 SIGNED BY GOVERNOR
CHAPTER NUMBER 599 EFFECTIVE DATE: 4/22/85

HB 912 INTRODUCED BY D. BROWN, LORV, ET AL.
REVISES THE HARD-ROCK MINING IMPACT ACT AND RELATED
STATUTES
BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

2/20 INTRODUCED
2/20 REFERRED TO NATURAL RESOURCES
2/22 HEARING
2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
2/26 2ND READING PASS 97 0
2/27 3RD READING PASS 97 3

TRANSMITTED TO SENATE
3/06 REFERRED TO NATURAL RESOURCES
3/20 HEARING
3/26 COMM REPORT-BILL CONCURRED AS AMENDED
3/29 2ND READING CONCURRED 49 0
4/01 3RD READING CONCURRED 48 0

RETURNED TO HOUSE WITH AMENDMENTS
4/08 2ND READING AMENDMENTS CONCURRED 94 3
4/08 ON MOTION RULES SUSPENDED
PLACED ON 3RD READING THIS DAY
4/08 3RD READING AMENDMENTS CONCURRED 96 2
4/15 SIGNED BY SPEAKER
4/15 SIGNED BY PRESIDENT

4/15 TRANSMITTED TO GOVERNOR
4/19 SIGNED BY GOVERNOR
CHAPTER NUMBER 582 EFFECTIVE DATE: 7/01/85

HB 913 INTRODUCED BY D. BROWN, KRUEGER, ET AL.
ESTABLISHING MONTANA MINERAL LEGACY PROGRAM

2/21 INTRODUCED
2/21 REFERRED TO NATURAL RESOURCES
2/21 FISCAL NOTE REQUESTED
2/22 HEARING
2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
2/23 STATEMENT OF INTENT ATTACHED
2/27 2ND READING PASS 85 11
2/27 ON MOTION RULES SUSPENDED
PLACED ON 3RD READING THIS DAY
2/27 FISCAL NOTE RECEIVED
2/27 3RD READING PASS 88 11

TRANSMITTED TO SENATE
3/06 REFERRED TO NATURAL RESOURCES
3/15 HEARING
3/29 COMM REPORT-BILL CONCURRED AS AMENDED
STATEMENT OF INTENT AMENDED
4/01 2ND READING INDEFINITELY POSTPONED 33 17

HB 914 INTRODUCED BY HANSEN
SUSTAINABLE LOCAL ECONOMIC DEVELOPMENT ACCOUNT FOR
LONG-RANGE DEVELOPMENT

HOUSE BILL NO. 912

INTRODUCED BY D. BROWN, LORY, ELLISON, IVERSON, MARKS, ECK

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE HOUSE

February 20, 1985	Introduced and referred to Committee on Natural Resources.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass. Considered correctly engrossed.
February 27, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 6, 1985	Introduced and referred to Committee on Natural Resources.
March 26, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 29, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Ayes, 48; Noes, 0. Returned to House with amendments.

IN THE HOUSE

April 2, 1985	Received from Senate.
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April 8, 1985

Second reading, amendments
concurred in.

On motion, rules suspended and
bill placed on third reading this
day.

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 912
2 INTRODUCED BY Joe Brown Long Ellison
3 Deke BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE HARD-ROCK
6 MINING IMPACT LAWS AND RELATED STATUTES; REDEFINING "LOCAL
7 GOVERNMENT UNIT" AND "LARGE-SCALE MINERAL DEVELOPMENT";
8 MAKING CERTAIN CHANGES TO IMPACT PLAN SUBMISSION
9 REQUIREMENTS; PROVIDING FOR TAX PREPAYMENT CREDITS AS
10 SPECIFIED IN THE IMPACT PLAN; AMENDING SECTIONS 2-15-1822,
11 82-4-335, 82-4-339, 90-6-302, 90-6-307, 90-6-309, AND
12 90-6-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
13 APPLICABILITY DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 Section 1. Section 2-15-1822, MCA, is amended to read:
17 "2-15-1822. Hard-rock mining impact board. (1) There
18 is a hard-rock mining impact board.
19 (2) The hard-rock mining impact board is a five-member
20 board.
21 (3) The hard-rock mining impact board shall include
22 among its members:
23 (a) three persons who, when appointed to the board,
24 reside in an area impacted or expected to be impacted by
25 large-scale mineral development;

1 (b) no more than three persons from the same
2 congressional district;
3 (c) a representative of the hard-rock mining industry;
4 (d) a representative of a major financial institution
5 in Montana;
6 (e) a person who, when appointed to the board, is an
7 elected school district trustee;
8 (f) a person who, when appointed to the board, is an
9 elected county commissioner;
10 (g) a member of the public-at-large.
11 (4) The hard-rock mining impact board is a
12 quasi-judicial board subject to the provisions of 2-15-124
13 except that one of the members need not be an attorney
14 licensed to practice law in this state, and the board shall
15 elect a chairman from among its members."
16 Section 2. Section 82-4-335, MCA, is amended to read:
17 "82-4-335. Operating permit. (1) No person shall
18 engage in mining or disturb land in anticipation of mining
19 in the state without first obtaining an operating permit
20 from the board to do so. A separate operating permit shall
21 be required for each mine complex. Prior to receiving an
22 operating permit from the board, any person must pay the
23 basic permit fee of \$25 and must submit an application on a
24 form provided by the board, which shall contain the
25 following information and any other pertinent data required

1 by the rules;

2 (a) name and address of the operator and, if a
3 corporation or other business entity, the name and address
4 of its principal officers, partners, and the like and its
5 resident agent for service of process, if required by law;

6 (b) minerals expected to be mined;

7 (c) a proposed reclamation plan;

8 (d) expected starting date of mining;

9 (e) a map showing the specific area to be mined and
10 the boundaries of the land which will be disturbed,
11 topographic detail, the location and names of all streams,
12 roads, railroads, and utility lines on or immediately
13 adjacent to the area, location of proposed access roads to
14 be built, and the names and addresses of the surface and
15 mineral owners of all lands within the mining area, to the
16 extent known to applicant;

17 (f) types of access roads to be built and manner of
18 reclamation of road sites on abandonment; and

19 (g) a plan of mining which will provide, within limits
20 of normal operating procedures of the industry, for
21 completion of mining and associated land disturbances.

22 (2) Except as provided in subsection (3) (4), the
23 permit provided for in subsection (1) for a large-scale
24 mineral development as defined in 90-6-302 shall be
25 conditioned to provide that activities under the permit may

1 not commence until the hard-rock mining impact board
2 approves the impact plan under 90-6-307 and until the
3 permittee has provided a written guarantee to the department
4 and to the hard-rock mining impact board of compliance
5 within the time schedule with the commitment made in the
6 impact plan approved by the hard-rock mining impact board,
7 as provided in 90-6-307. If the permittee does not comply
8 with that commitment within the time scheduled, the board,
9 upon receipt of written notice from the hard-rock mining
10 impact board, shall suspend the permit until it receives
11 written notice from the hard-rock mining impact board that
12 the permittee is in compliance.

13 (3) When the department determines that a permittee
14 has become or will become a large-scale mineral developer
15 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
16 required under 82-4-339, within 6 months of receiving the
17 notice, the permittee shall provide the board with proof
18 that he has obtained a waiver of the impact plan requirement
19 from the hard-rock mining impact board or that he has filed
20 an impact plan with the hard-rock mining impact board and
21 the appropriate county or counties. If the permittee does
22 not file the required proof or if the hard-rock mining
23 impact board certifies to the board that the permittee has
24 failed to comply with the hard-rock mining impact review and
25 implementation requirements in Title 90, chapter 6, parts 3

and 4, the board shall suspend the permit until the permittee files the required proof or until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock mining impact review and implementation requirements.

{3}{4} Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing when the aggregate samples are less than 10,000 tons."

Section 3. Section 82-4-339, MCA, is amended to read:

"82-4-339. Annual report of activities by permittee -- fee -- notice of large-scale mineral developer status. (1) Within 30 days after completion or abandonment of operations on an area under permit or within 30 days after each anniversary date of the permit, whichever is earlier, or at such later date as may be provided by rules of the board and each year thereafter until reclamation is completed and approved, the permittee shall pay the annual fee of \$25 and shall file a report of activities completed during the preceding year on a form prescribed by the board which report shall:

- {1}{a} identify the permittee and the permit number;
- {2}{b} locate the operation by subdivision, section, township, and range and with relation to the nearest town or other well-known geographic feature;
- {3}{c} estimate acreage to be newly disturbed by

operation in the next 12-month period; and

{d} include the number of persons on the payroll for the previous permit year and for the next permit year at intervals that the department considers sufficient to enable a determination of the permittee's status under 90-6-302(4); and

{4}{e} update any maps previously submitted or specifically requested by the board. Such maps shall show:

{a}{i} the permit area;

{b}{ii} the unit of disturbed land;

{c}{iii} the area to be disturbed during the next 12-month period;

{d}{iv} if completed, the date of completion of operations;

{e}{v} if not completed, the additional area estimated to be further disturbed by the operation within the following permit year; and

{f}{vi} the date of beginning, amount, and current status of reclamation performed during the previous 12 months.

{2} Whenever the department determines that the permittee has become or will, during the next permit year, become a large-scale mineral developer, it shall immediately serve written notice of that fact on the permittee, the hard-rock mining impact board, and the county or counties in

1 which the operation is located."

2 Section 4. Section 90-6-302, MCA, is amended to read:
3 "90-6-302. Definitions. In this part the following
4 definitions apply:

5 (1) "Board" means the hard-rock mining impact board
6 established in 2-15-1822.

7 (2) "Bonds" include bonds, notes, warrants,
8 debentures, certificates of indebtedness, temporary bonds,
9 temporary notes, interim receipts, interim certificates, and
10 all instruments or obligations evidencing or representing
11 indebtedness or evidencing or representing the borrowing of
12 money or evidencing or representing a charge, lien, or
13 encumbrance on specific revenues, special assessments,
14 income, or property of a political subdivision, including
15 all instruments or obligations payable from a special fund.

16 (3) "Local government unit" means a political
17 ~~subdivision of this state, including a county, city, town,~~
18 ~~school district, or other special district that provides any~~
19 ~~of the services referred to in subsection (1)(c) of 90-6-307~~
20 any of the following independent special districts:

21 (a) rural fire district;

22 (b) public hospital district;

23 (c) refuse disposal district;

24 (d) county water and sewer district;

25 (e) county water district; or

1 (f) county sewer district.

2 (4) "Large-scale mineral development" means the
3 construction or operation of a hard-rock mine and the
4 associated milling facility ~~that will:~~

5 ~~(a) employ at any given time at least 100 people; or~~
6 ~~(b) cause, or be expected to cause, an increase in~~
7 ~~estimated population of at least 15% in a local government~~
8 ~~unit when measured against the average population of the~~
9 ~~local government unit in the 3-year period immediately~~
10 ~~preceding the commencement of the construction of the mining~~
11 ~~facility. A mining operation that would qualify as a~~
12 ~~large-scale mineral development under this subsection is not~~
13 ~~a large-scale mineral development if the mine owner and~~
14 ~~operator are small miners as defined in 82-4-303(i) for~~
15 which a permit is applied for under 82-4-335 on or after May
16 18, 1981, and for which the average number of persons on the
17 payroll of the mineral developer and of contractors at the
18 mineral development exceeds or is projected to exceed 75 for
19 any consecutive 6-month period."

20 Section 5. Section 90-6-307, MCA, is amended to read:

21 "90-6-307. Impact plan to be submitted. (1) After an
22 application for a permit for a large-scale mineral
23 development is made under 82-4-335, the person seeking the
24 permit shall submit to the affected counties and the board
25 an impact plan describing the economic impact the

1 large-scale mineral development will have on local
 2 government units and shall file proof of such submission to
 3 the counties with the board. Whenever an environmental
 4 impact statement on the permit application is prepared under
 5 75-1-201, the lead agency shall cooperate to the fullest
 6 extent practicable with the affected local government units
 7 to eliminate duplication of effort in data collection. The
 8 governing bodies of the affected counties shall publish
 9 notice of the submission of an impact plan at least once in
 10 a newspaper of general circulation in the county. The
 11 impact plan shall include:

12 (a) a timetable for development, including the opening
 13 date of the development and the estimated closing date;

14 (b) the estimated number of persons coming into the
 15 impacted area as a result of the development;

16 (c) the increased capital and operating cost to local
 17 government units for providing services, ~~including but not~~
 18 ~~limited to police and fire protection, sewage, water~~
 19 ~~treatment, schools, road construction and upkeep, education,~~
 20 ~~and medical care,~~ which can be expected as a result of the
 21 development;

22 (d) the financial or other assistance the developer
 23 will give to local government units to meet the increased
 24 need for services.

25 (2) In the impact plan, the developer shall commit

1 itself to pay all of the increased capital and net operating
 2 cost to local government units that will be a result of the
 3 development, as identified in the impact plan, either from
 4 tax prepayments, as provided in 90-6-309, special industrial
 5 educational impact bonds, as provided in 90-6-310, or other
 6 funds obtained from the developer, and shall provide a time
 7 schedule within which it will do so. The plan may provide
 8 for funding from other revenue sources or funding mechanisms
 9 if the developer guarantees that the amount to be provided
 10 from these sources will be paid.

11 (3) Upon request of the governing body of an affected
 12 unit of local government, the mineral developer, prior to
 13 ~~commencement~~ the end of the 90-day review period, shall
 14 provide financial or other assistance as necessary to
 15 prepare for and evaluate the impact plan. The governing body
 16 of the affected county must contract with the developer to
 17 obtain the requested financial assistance for each unit of
 18 local government within the county. Any disbursements to a
 19 unit of local government under this subsection shall be
 20 credited against future tax liabilities, if any.

21 (4) An affected local government unit shall, within 90
 22 days after receipt of the impact plan from the developer,
 23 notify the board in writing if that local government unit
 24 objects to the impact plan, specifying the reasons why the
 25 impact plan is objected to. During the 90-day period, an

1 affected local governmental unit may petition for one 30-day
2 extension by submitting a written request to the board
3 stating the need and justification for the extension. The
4 board shall grant the extension unless it finds there is no
5 reasonable basis for the request. If no objection is
6 received within the 90-day period or any extension thereof,
7 the impact plan shall be approved by the board.

8 (5) If objections are received from a local government
9 unit, the board shall, within 10 days, notify the developer
10 and forward a copy of the local government unit's objections
11 to the developer. ~~ff-within-30-days-the~~ The local government
12 unit and the developer cannot have 30 days, or a longer
13 period if both the local government unit and the developer
14 request an extension, to resolve the objection. If the
15 objections are not resolved, the board shall conduct a
16 hearing on the validity of the objections, which shall be
17 held in the affected county or, if objections are received
18 from local government units in more than one county, shall
19 be held in the county which, in the board's judgment, is
20 more greatly affected. The provisions of the Montana
21 Administrative Procedure Act shall apply to the conduct of
22 the hearing. The impact plan filed by the developer shall
23 carry no presumption of correctness at the hearing.

24 (6) Following the hearing, the board shall, within 60
25 days, make findings as to those portions of the impact plan

1 which were objected to and, if appropriate, amend the impact
2 plan accordingly. The findings and impact plan, as amended,
3 shall be served by the board upon all parties. Any local
4 government unit or the developer, if aggrieved by the
5 decision of the board, is entitled to judicial review, as
6 provided by Title 2, chapter 4, part 7, in the district
7 court in and for the judicial district in which the hearing
8 was held.

9 (7) The developer shall, within 30 days of receipt of
10 the approved impact plan, provide the board with a written
11 guaranty guarantee that the developer will make-all-the
12 payments-to-the-board-required meet the increased costs of
13 public services and facilities as specified in the approved
14 impact plan and according to the time schedule contained in
15 the approved impact plan.

16 (8) ~~The-board-shall-deposit-all-payments-received-from~~
17 ~~the-developer-into-the-hard-rock-mining-impact-account~~
18 ~~established-by-90-6-304.~~ The developer may make payments as
19 specified in the approved impact plan directly to a local
20 government unit or to the board. The governing body of a
21 local government unit receiving payments shall deposit the
22 payments into an impact fund and shall issue to the board
23 written verification of each payment and its intended use in
24 compliance with the impact plan. The board shall deposit
25 payments received from a developer into the hard-rock mining

1 impact account established by 90-6-304.

2 (9) The board shall notify the department of state
3 lands of its receipt of the written guaranty guarantee of
4 payment, of each required payment, and of any failure of the
5 developer to comply with this section.

6 (10) Upon receipt of evidence that an affected local
7 government unit identified in the approved impact plan is
8 providing or is preparing to provide an additional service
9 or facility provided for in the approved impact plan, the
10 board shall, if the hard-rock mining impact account is used
11 to deliver payments to the local government unit, pay to
12 that local government unit in one sum or in parts the money
13 from the hard-rock mining impact fund identified in the plan
14 as the increased cost to the local government unit of
15 providing that public service or facility.

16 (11) If it is determined that an objection filed by an
17 affected local government unit under subsection (4) or
18 90-6-311(3) is valid and it results in some remedial order
19 by the board or court of competent jurisdiction, the local
20 government unit shall be awarded and the developer shall pay
21 reasonable costs and attorney fees associated with any
22 administrative or judicial appeals filed under this section.
23 Any attorney fees and costs awarded shall be in addition to
24 any amounts paid by the developer under this part.

25 (12) Upon a determination by the department of state

1 lands that a permittee under 82-4-335 has become or will
2 become a large-scale mineral developer, the permittee may
3 petition the board for a waiver of the impact plan
4 requirement. The board may grant a waiver or conditional
5 waiver of this requirement only if it has provided notice
6 and opportunity for hearing to the permittee and to all
7 affected local government units. The board shall adopt
8 criteria under which a waiver may be granted. A waiver
9 issued by the board may be revoked if the permittee and
10 contractors at the mineral development increase their
11 payrolls from the date of the waiver by 75 or more persons,
12 provided the revocation is requested by an affected local
13 government unit and notice and opportunity for hearing are
14 given to the permittee and all affected local government
15 units. The board shall notify the board of land
16 commissioners of any waiver that has been revoked.

17 (13) When a person who holds an operating permit under
18 82-4-335 and who has filed an impact plan fails to comply
19 with the review and implementation requirements in this part
20 and part 4 of this chapter, the board shall certify to the
21 board of land commissioners that the failure to comply has
22 occurred and shall certify when a permittee who has
23 previously failed to comply comes into compliance."

24 Section 6. Section 90-6-309, MCA, is amended to read:
25 "90-6-309. Tax prepayment -- large-scale mineral

1 development. (1) After permission to commence operation is
 2 granted by the appropriate governmental agency, and upon
 3 request of the governing body of a county in which a
 4 facility is to be located, a person intending to construct
 5 or locate a large-scale mineral development in this state
 6 shall prepay property taxes ~~in an amount equal to at least~~
 7 ~~three times the estimated property tax due the year the~~
 8 ~~large-scale mineral development facility commences operation~~
 9 as specified in the impact plan. This prepayment shall
 10 exclude the 6-mill university levy and may exclude the
 11 mandatory county levy for the school foundation program of
 12 ~~40~~ 45 mills.

13 (2) The person who is to prepay under this section
 14 shall not be obligated to prepay the entire amount
 15 established in subsection (1) at one time. Upon request of
 16 the governing body of an affected local government unit, the
 17 person shall prepay the amount shown to be needed from time
 18 to time as determined by the board.

19 (3) The person who is to prepay shall guarantee to the
 20 hard-rock mining impact board, through an appropriate
 21 financial institution, as may be required by the board, that
 22 property tax prepayments will be paid as needed for
 23 expenditures created by the impacts of the large-scale
 24 mineral development.

25 (4) When the mineral development facilities are

1 completed and assessed by the department of revenue, they
 2 shall be subject during the first 3 years and thereafter to
 3 taxation as all other property similarly situated, except
 4 that in each year after the start of production, the local
 5 government unit that received a property tax prepayment
 6 shall provide for repayment of prepaid property taxes in
 7 accordance with subsection (5).

8 (5) A local government unit that received all or a
 9 portion of the property tax prepayment under this section
 10 shall provide for ~~repayment according to the following~~
 11 procedure: tax crediting as specified in the impact plan.
 12 The tax credit allowed in any year may not, however, exceed
 13 the tax obligation of the developer for that year, and the
 14 time period for tax crediting is limited to the productive
 15 life of the mining operation. In addition, the impact plan
 16 shall include conditions that allow for adjustment in the
 17 tax credit to assure that the allowance of the credit will
 18 not result in substantial increases in local mill levies.

19 ~~(a) In each year after the commencement of mining, the~~
 20 ~~local government shall:~~

21 ~~(i) divide its budget by the average mill levy of its~~
 22 ~~jurisdiction during the 3 years immediately preceding~~
 23 ~~commencement of mining operations, to arrive at a taxable~~
 24 ~~valuation needed to fund its budget using the average 3-year~~
 25 ~~mill levy;~~

{ii}-reduce-the-taxable-valuation-of-property-of-a person-who-prepaid-property-taxes-by-the-excess-if-any-of the-total-taxable-value-of-the-taxing-jurisdiction-including the-person's-property-over-the-taxable-value-determined under-subsection-(5){a}{i};-but-in-no-case-by-an-amount greater-than-the-taxable-value-of-the-person's-property;

{b}-The-reduction-in-taxable-value-if-any-determined under-subsection-(5){a}{ii}-times-the-average-mill-levy-used in-subsection-(5){a}{i}-equals-the-property-tax-prepayment credit-allowed-for-the-taxable-year-for-that-local government-unit.-Any-local-government-unit-not-receiving-a payment-shall-not-be-affected-by-this-section-and-no reduction-in-value-shall-be-used-in-the-computation-of-taxes due-that-unit-of-local-government;-in-no-event-shall-the credit-allowed-under-this-part-extend-more-than-10-years beyond-the-date-the-prepayment-is-made-under-this-section;

{c}-The-procedure-established-under-subsection-(5){a} shall-continue-from-year-to-year-until-the-total-credit allowed-the-person-who-prepaid-property-taxes-equals-the total-property-taxes-prepaid:"

Section 7. Section 90-6-311, MCA, is amended to read:

"90-6-311. Impact plan amendments. (1) The impact plan may provide for amendment under definite conditions specified in the plan. Also, the governing body of an affected county or the mineral developer may petition the

board for an amendment to an approved impact plan if:

(a) employment at the large-scale mineral development is forecast to increase or decrease by at least 100 people 75 payroll employees, as determined under 90-6-302(4), over or under the employment levels contemplated by the approved impact plan; or

{b}-changes-in-the-large-scale-mineral-development cause-or-can-be-expected-to-cause-an-increase-in-estimated population-of-at-least-15%-in-a-local-government-unit-when measured-against-the-average-population-of-the-local government-unit-in-the-3-year-period-preceding-the commencement-of-new-construction-or-new-operations-of-the mining-facility; or

{c}{b} it becomes apparent that an approved impact plan is materially inaccurate because of errors in assessment and 2 years have not elapsed since the date the facility begins commercial production; or

{d}{c} the governing body of an affected county and the mineral developer join in a petition to amend the impact plan.

(2) Within 10 days of receipt the board shall publish notice of the petition at least once in a newspaper of general circulation in the affected county. The petition must include:

(a) an explanation of the need for an amendment;

1 (b) a statement of the facts and circumstances
2 underlying the need for an amendment; and

3 (c) a description of the corrective measures proposed
4 by the petitioner.

5 (3) Within 60 days after notice that the petition has
6 been received, an affected local government unit or the
7 mineral developer must notify the board in writing if such
8 person objects to the amendments proposed by the petitioner,
9 specifying the reasons why the impact plan should not be
10 amended as proposed. If no objection is received within the
11 60-day period, the impact plan must be amended by the board
12 as proposed by the petitioner.

13 (4) If an objection is received, within 10 days of its
14 receipt, the board shall notify the petitioner and include a
15 copy of all objections received by the board. If the
16 objecting party and the petitioner cannot resolve the
17 objections within 30 days after the expiration of the 60-day
18 period, the board shall conduct a hearing on the validity of
19 the objections within 30 days after the failure of the
20 parties to resolve the objections. The hearing must be held
21 in the affected county or, if objections are received from
22 local government units in more than one county, must be held
23 in the county which in the board's judgment is more greatly
24 affected. The provisions of the Montana Administrative
25 Procedure Act apply to the conduct of the hearing.

1 (5) Following the hearing, the board shall make
2 findings as to those portions of the amendments which were
3 objected to and, if appropriate, amend the impact plan
4 accordingly. The board shall cause the findings and impact
5 plan, as amended, to be served on all parties. Any local
6 government unit or the developer is entitled to judicial
7 review, as provided by Title 2, chapter 4, part 7, in the
8 district court for the judicial district in which the
9 hearing was held."

10 NEW SECTION. Section 8. Local government budget
11 authority. A local government unit may budget and expend
12 payments received from a mineral developer under this part
13 or part 4 of this chapter or pursuant to a plan approved
14 under this part. If a payment is requested or received after
15 the adoption of the budget for the fiscal year in which the
16 payment is to be expended, the governing body of the local
17 government unit may by a majority vote amend its budget to
18 provide for the receipt and expenditure of the payments.

19 NEW SECTION. Section 9. Codification instruction.
20 Section 8 is intended to be codified as an integral part of
21 Title 90, chapter 5, part 3, and the provisions of Title 90,
22 chapter 6, part 3, apply to section 8.

23 NEW SECTION. Section 10. Extension of authority. Any
24 existing authority of the hard-rock mining impact board, the
25 department of state lands, and the board of land

1 commissioners to make rules on the subject of the provisions
2 of this act is extended to the provisions of this act.

3 NEW SECTION. Section 11. Applicability. The
4 provisions of this act apply to a mineral development for
5 which a permit application is made under 82-4-335 on or
6 after May 18, 1981, and prior to July 1, 1985, only if the
7 mineral development is or will become a large-scale mineral
8 development under 90-6-302(4), as that statute read prior to
9 July 1, 1985.

10 NEW SECTION. Section 12. Effective date. This act is
11 effective July 1, 1985.

-End-

resource and development projects falls under the intended constitutional use of RIT. Rep. Brown said that issue is debatable, but that he believes such a use is constitutional.

Rep. Kadas asked how the department will prioritize the requests for legacy funding. Rep. Brown said the developed list of programs under SB 277 is already in place, and that model would likely not change.

Rep. Krueger asked if HB 913 would go on to a long-range appropriations committee, and was told that since the bill is simply an authorization, and does not actually administer funds, it would go through the normal legislative process.

Rep. Brown closed by saying the issue of support was basically a policy decision, regarding which approach, that of SB 277, or that of HB 913, would be best for the use of RIT funds, and urged the choice of 913.

HOUSE BILL 912: HB 912 was introduced by Rep. Dave Brown, District 72, who sponsored it at the request of the Environmental Quality Council. The bill is the result of cooperation between industry, environmental groups and local governments, he said. He then outlined the provisions of the bill, which would revise the hard-rock mining impact laws and related statutes.

Rep. Brown said that HB 912 would have a couple of areas of major impact, the first of which is spelled out in section 6(5), describing tax crediting. That provision alone is a major reason to pass the bill, he said.

The bill also expands the allowances for corporate financing of projects, and redefines large-scale mineral developments.

Les Darling, representing the Montana Mining Association and the Stillwater Mining Company, said industry had worked hard in drafting HB 912. He said there had been problems with the tax crediting provisions of the existing act, and that HB 912 eliminates those difficulties.

Jim Richards of the Montana Association of Professional Planners endorsed the bill, and said it would simplify planning difficulties faced by local governments regarding mining operations.

Carol Ferguson, administrative officer of the Hard-Rock Mining Impact Board, spoke in support of HB 912, and offered two amendments to the legislation. A copy of her testimony and suggested amendments is attached as Exhibit 19.

Dennis Hemmer, representing the department of state lands, said that agency supports passage of HB 912. A copy of his testimony is attached as Exhibit 20.

Ward Shanahan, representing Chevron Resources, endorsed HB 912, with an amendment, a copy of which is attached hereto as Exhibit 21.

John Fitzpatrick of Helena rose in support of HB 912.

George Ochenski spoke in favor of the bill on behalf of EIC.

Jeanne-Marie Souvigney said that the Northern Plains Resource Council had followed the drafting of HB 912 for three years, and supported its passage.

No opponents spoke against the bill, and the floor was opened to questions from committee.

Rep. Raney asked if there was a difference between "persons" and "payroll employees" mentioned in the bill and was told there was no difference.

Rep. Raney mentioned problems with a mine in the Jardine area that would likely not have occurred under the provisions of HB 912.

Hearing on the bill was closed.

EXECUTIVE ACTION

HOUSE BILL 912: Rep. Asay moved DO PASS on HB 912, and also moved the amendments suggested by Les Darling and Carol Ferguson. Those amendments were adopted and the bill was passed unanimously.

HOUSE BILL 913: Rep. Jones moved DO PASS on HB 913. Rep. Raney moved the amendments that had been suggested by Rep. Brown, and those amendments were adopted unanimously.

Rep. Ream questioned whether section 11(5) of the bill, which calls for the development of efficient technology, gets more into the area of corporate responsibility than state authority, and moved to delete the words "more efficient or" from lines 16 and 17 on page 12. Rep. Krueger said he saw no problem with leaving the language of the bill intact and made a substitute motion to not pass the amendment. The substitute motion was approved, with representatives Ream, Kadas, Asay and Peterson voting no, and the language of that section remained unaltered.

The committee voted on Rep. Jones' DO PASS AS AMENDED motion, and the bill was passed. Reps. Garcia and Peterson voted no. The statement of intent, moved by Rep. Asay, passed unanimously.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date February 22, 1985

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

STANDING COMMITTEE REPORT

PAGE 1 of 2

February 22

19 85

SPEAKER:
MR.

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 912

first reading copy (white color)

AN ACT REVISING THE HARD-ROCK MINING IMPACT LAWS AND RELATED
STATUTES

Respectfully report as follows: That HOUSE Bill No. 912
BE AMENDED AS FOLLOWS:

- 1) Page 12, line 22.
Following: "fund"
Strike: "and"
Insert: ". The developer, and the affected governing body"
Following: "shall"
Insert: "each"
- 2) Page 14, line 9.
Following: "revoked"
Insert: "as provided in the conditional waiver or"

XXXXXX
DO PASS

- 3) Page 16, lines 15-18.
Following: "operation."
Strike: ~~Remainder of line 15, and lines 16-18 in their entirety.~~
- 4) Page 18, line 4.
Following: "75"
Strike: "~~payroll employees~~"
Insert: "persons"

AND AS AMENDED,

DO PASS

DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT DIVISION

19
2/22



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING--ROOM C 211
CAPITOL STATION

STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620

MEMORANDUM

TO: Representative Dennis Iverson, Chairman
House Committee on Natural Resources

FROM: Carol Ferguson, Administrative Officer
Hard-Rock Mining Impact Board

G

DATE: February 22, 1985

RE: HB912

1. On pages 1 and 2, Section 1, amending Section 2-15-1822(1), MCA:

The Hard-Rock Mining Impact Board would like to thank EQC and the members of this committee for the inclusion of the amendments in Section 1 which should ensure that a person appointed to the Hard-Rock Mining Impact Board will be entitled to serve out the term of that appointment as intended at the time of appointment.

2. On page 12, Section 5, amending sub-section 90-6-307(8), MCA:

At the Hard-Rock Mining Impact Board meeting on February 15 the Board said that both the developer and the affected local government should notify the Board of payments made and received in compliance with an impact plan. This is of concern because the Act requires the Board to notify Department of State Lands of any failure by the developer to comply with the approved plan. The matter of requiring notification could be easily addressed as follows:

line 22:
following: "fund"
delete: "and"
insert: ". The developer and the affected governing body"
following: "shall"
insert: "each"

Beginning on line 20 the two sentences would then read:

"The governing body of a local government unit receiving payments shall deposit the payments into an impact fund. The developer and the affected governing body shall each issue to the board written verification of each payment and its intended use in compliance with the impact plan."

Ex. 19
P 2
2/22
1

3. Page 14, Section 5, Section 90-6-307(12):

The Board felt strongly that the ability to grant a "conditional waiver" as provided for in lines 4 and 5 is important to the new responsibilities given them under this sub-section.

Upon reviewing the bill, as it became available subsequent to the Board meeting, I would suggest that a possible mis-interpretation of the sub-section could be prevented by inserting the following language in line 9:

Line 9
following: "revoked"
insert: "as provided in the conditional waiver or"

This would ensure that the reference to the 75 employees would itself not be interpreted as defining the sole authorized condition of a waiver. It would make clear that the 75 employees relates to any waiver and that a conditional waiver is a separate item.

DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT DIVISION

2/22



TED SCHWINDEN, GOVERNOR

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2/22

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TESTIMONY ON HOUSE BILL 912
FROM DENNIS HEMMER, COMMISSIONER OF STATE LANDS

Although the counties and the Hard Rock Impact Board review impact plans for sufficiency, the Department of State Lands through its reclamation permit review determines whether an operator is a hard rock mineral developer and is therefore required to file an impact plan.

From its perspective, State Lands perceives two problems with the Impact Act. First, the fifteen percent criterion is difficult to apply and is applied by the wrong agency. The Impact Board and the Department of Commerce, not State Lands, have the expertise in local government, demographics, and economics. To remedy this situation, State Lands and Commerce have signed a memorandum of understanding whereby Commerce advises State Lands on the fifteen percent determination. This is an imperfect solution because, if Commerce is wrong, State Lands loses the lawsuit.

The second problem is that the Impact Act does not indicate what State Lands should do when an operator that was not a major mineral developer when it obtained its reclamation permit reaches the 100 employee threshold. State Lands has been writing into the reclamation permit a stipulation that defers the question until the situation arises. Fortunately, it has not arisen.

House Bill 912 resolves the problems and ambiguities I have described. It eliminates the fifteen percent criterion. It grandfathers operations existing when the Impact Act was passed and gives relief to those operators who become major mineral developers after commencing operations.

State Lands commends the EQC, and especially Representative Brown, Senator Eck, Representative Lory, and Tad Dale, for their work and recommends approval of House Bill 912.

NAME Ward A. Shanahan

BILL NO. House Bill 912

ADDRESS 301 1st National Bank Bldg., Helena, MT

DATE February 22, 1985

WHOM DO YOU REPRESENT Chevron Resources/Stillwater Mining Co./Local Planners

SUPPORT _____ OPPOSE _____ AMEND xx

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Page 16, line 15 through line 18.

Following "operation."

Strike: line 15 through line 18 in their entirety

And as amended to recommend that House Bill 912 "Do Pass"

CHEVRON RESOURCES

By: Ward A. Shanahan

Ward A. Shanahan

STILLWATER MINING COMPANY

By: L. A. Darling

L. A. Darling

LOCAL PLANNERS

By: Jim Richard

Jim Richard

NATURAL RESOURCES COMMITTEE

DATE 2/27/85

SPONSOR D. BROWN

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

When questioned by Senator Harding as to how many counties are objecting to this requirement, Mr. Hemmer stated he knew of two counties, while Mr. Gordon stated 17 counties are unanimous in their objection. These 17 counties are mostly located in eastern Montana. Senator Gage stated the reason most of these counties in eastern Montana are objecting is because the eastern part of the state does not share the environmental concerns of the rest of Montana.

There being no further questions from the committee, the hearing on HB695 was closed.

CONSIDERATION OF HB912: Representative Dave Brown, sponsor of HB912, stated he worked with staff researcher, Mr. Bob Thompson, in drafting HB912. HB912 gives a firm definition of "local government unit," and "large-scale mineral development." A large-scale mineral development will refer to operations employing more than 75 people. Representative Brown asked the committee to allow the small miner exemption to remain in the bill.

PROPOSERS: Mr. Jim Richard, speaking for the local government of Stillwater County, supports HB912.

Ms. Jeanne-Marie Souvigney, representing Northern Plains Resource Council, agrees with the amendments proposed by Representative Brown.

Mr. John Beaudry, representing Stillwater County, has been involved with the preparation of an impact plan. Mr. Beaudry feels the proposed amendments benefit the counties and mining industry.

Mr. Dennis Hemmer, representing the Department of State Lands, submitted written testimony (Exhibit 5) in favor of HB912.

Mr. Gary Langley, representing the Montana Mining Association, stated HB912 is the result of a two-year study conducted by a subcommittee. Mr. Langley feels HB912 is an improvement over the current statutes and will eliminate confusion.

Ms. Carol Ferguson, representing Hard-Rock Mining Impact Board, stated her organization has tried not to take sides on this issue but, rather, bring the problems to everyone's attention.

Mr. George Ochenski, representing the Environmental Information Center, supports HB912 and asked the clause regarding small miners be put back into the bill.

Minutes of the Meeting
March 20, 1985
Page 6

Mr. Mike Miconi, representing Western Environmental Trade Association, believes HB912 is an improvement in the current law.

Mr. Joe Danni, representing Homestake Mining, endorses HB912.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

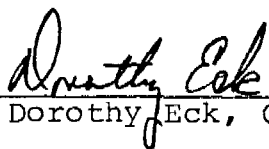
Senator Halligan suggested to Ms. Souvigney they go back to the original language of "local government unit" in order to include everyone and to protect the members of her organization. Ms. Souvigney stated there never was a question regarding what local government units would be covered and believes no one would be left out. Ms. Souvigney further explained some districts, like the conservation districts, would still go through the county.

There being no further questions from the committee, the hearing on HB912 was closed.

ACTION ON HB860: Senator Fuller moved HB860 BE CONCURRED IN. The motion carried.

ACTION ON HB698: Senator Halligan moved HB698 BE CONCURRED IN. Senator Daniels made a substitute motion HB698 NOT BE CONCURRED IN. The motion failed, and the committee asked the vote be reversed to reflect the bill BE CONCURRED IN.

There being no further business to come before the committee the meeting was adjourned at 2:27 p.m.



Senator Dorothy Eck, Chairman

ROLL CALL

Natural Resources

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 12/3/85

LEGISLATIVE
CLERK

NAME	PRESENT	ABSENT	EXCUSED
<u>ECK, Dorothy (Chairman)</u>	✓		
<u>HALLIGAN, Mike (Vice Chairman)</u>	✓		
<u>WHEEDING, Cecil</u>	✓		
<u>MOHAR, John</u>	✓		
<u>DANIELS, M. K.</u>	✓		
<u>FULLER, David</u>	✓		
<u>CHRISTIAENS, Chris</u>	✓		
<u>TVEIT, Larry</u>	✓		
<u>GAGE, Delwyn</u>	✓		
<u>ANDERSON, John</u>	✓		
<u>SHAW, James</u>	✓		
<u>HARDING, Ethel</u>	✓		

Each day attach to minutes.

C32C 85

VISITORS' REGISTER

[illegible]

TESTIMONY ON HOUSE BILL 912
FROM DENNIS HEMMER, COMMISSIONER OF STATE LANDS

Although the counties and the Hard Rock Impact Board review impact plans for sufficiency, the Department of State Lands through its reclamation permit review determines whether an operator is a hard rock mineral developer and is therefore required to file an impact plan.

From its perspective, State Lands perceives two problems with the Impact Act. First, the fifteen percent criterion is difficult to apply and is applied by the wrong agency. The Impact Board and the Department of Commerce, not State Lands, have the expertise in local government, demographics, and economics. To remedy this situation, State Lands and Commerce have signed a memorandum of understanding whereby Commerce advises State Lands on the fifteen percent determination. This is an imperfect solution because, if Commerce is wrong, State Lands loses the lawsuit.

The second problem is that the Impact Act does not indicate what State Lands should do when an operator that was not a major mineral developer when it obtained its reclamation permit reaches the 100 employee threshold. State Lands has been writing into the reclamation permit a stipulation that defers the question until the situation arises. Fortunately, it has not arisen.

House Bill 912 resolves the problems and ambiguities I have described. It eliminates the fifteen percent criterion. It grandfathers operations existing when the Impact Act was passed and gives relief to those operators who become major mineral developers after commencing operations.

State Lands commends the EQC, and especially Representative Brown, Senator Eck, Representative Lory, and Tad Dale, for their work and recommends approval of House Bill 912.

would give the DNRC the ability to certify to the district courts certain matters dealing with adjudication of certain rights. HB859 provides that in a situation where the applicant or objector determines there are legal issues with the water right which need to be addressed, they may send that issue to the district court for a determination. HB859 would apply to any case pending before the DNRC at the present time but would exempt cases which have already been submitted for a proposal for decision. Mr. MacIntyre submitted a proposed amendment (Exhibit 5) for the committee's consideration.

PROPOSERS: Mr. Ted Doney, representing the Montana Water Development Association, supports HB859 with the proposed amendment. Mr. Doney feels the proposed amendment is very important because without the amendment, every charged application proceeding would go to court.

Mr. Don MacIntyre, representing DNRC, supports HB859 and the proposed amendment.

There being no further proponents, no opponents and no question from the committee, the hearing on HB859 was closed.

ACTION ON HB859: Senator Fuller moved the amendment proposed by Mr. MacIntyre to HB859 BE ADOPTED. The motion carried. Senator Fuller moved HB859 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HB638: Senator Halligan moved HB638 BE CONCURRED IN. The motion carried.

ACTION ON HB396: Senator Gage moved HB396 BE CONCURRED IN. The motion carried.

ACTION ON HB912: Mr. Thompson submitted a proposed amendment to HB912 for the committee's consideration (Exhibit 6). Senator Shaw moved the proposed amendment BE ADOPTED. The motion carried. Senator Shaw moved HB912 BE CONCURRED IN AS AMENDED. The motion carried.

FURTHER CONSIDERATION OF HJR25: Senator Mohar stated there was broad support for this bill, even though it is generally recognized there is a problem and the delegation has already been asked to resolve the issue. Senator Mohar feels passage of HJR25 will not add any incentive for resolving the wilderness area issue. Chairman Eck wondered if by not passing HJR25, the delegation may determine the legislature is not concerned about designating wilderness areas.

Proposed Amendment to HB 912
Third Reading Copy
March 22, 1985

1. Page 8, line 20

Following: "period."

Insert: "A mining operation that would qualify as a large-scale mineral development under this subsection is not a large-scale mineral development if the mine owner and operator are small miners as defined in 82-4-303."

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 6

DATE 032585

HB912

STANDING COMMITTEE REPORT

MARCH 26

19 85

MR. PRESIDENT

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE BILL** No. **912**

THIRD reading copy (**BLUE**)
(ECK) color

REVISES THE HARD-ROCK MINING IMPACT ACT AND RELATED STATUTES

Respectfully report as follows: That **HOUSE BILL** No. **912**

be amended as follows:

1. Page 8, line 20.

Following: "period."

Insert: "A mining operation that would qualify as a large-scale mineral development under this subsection is not a large-scale mineral development if the mine owner and operator are small miners as defined in 32-4-303."

AND, AS AMENDED
BE CONCURRED IN

~~REMARKS~~

~~REMARKS~~

SENATOR DOROTHY ECK

Chairman.